



**NUMBERS 13-07-00761-CV and 13-09-00269-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**BERRY SIMMONS AND SARAH SIMMONS,  
HEIRS, AND THE HARRISON FAMILY,**

**Appellants,**

**v.**

**JAMES A. BOULIGNY AND ELSIE SALLEE,**

**Appellees.**

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**On appeal from the 130th District Court  
of Matagorda County, Texas.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Garza and Vela  
Memorandum Opinion Per Curiam**

Berry Simmons and Sarah Simmons, Heirs, (“Simmons”) and the Harrison Family (“Harrison”) perfected an appeal from a judgment entered by the 130<sup>th</sup> District Court of Matagorda County Texas, in cause number 03-E-0287-C. The Harrison brief was due on July 16, 2008. On March 27, 2009, the Clerk of the Court notified appellant Harrison that

the brief had not been timely filed and that the appeal was subject to dismissal for want of prosecution under Texas Rule of Appellate Procedure 38.8(a)(1), unless within ten days from the date of receipt of this letter, appellant Harrison reasonably explained the failure and the appellee was not significantly injured by the appellant's failure to timely file a brief. Appellant Harrison has not responded.

Appellant Harrison has failed to either reasonably explain his failure to file a brief, file a motion for extension of time to file his brief, or file his brief. Accordingly, the Harrison appeal, 13-07-00761-CV, is DISMISSED FOR WANT OF PROSECUTION. See TEX. R. APP. P. 38.8(a), 42.3(b). The appeal with respect to appellants Berry Simmons and Sarah Simmons, Heirs, is ordered SEVERED and docketed in Cause No. 13-09-00269-CV styled Berry Simmons and Sarah Simmons, Heirs v. James A. Bouligny and Elsie Sallee, and will proceed in due course.

PER CURIAM

Memorandum Opinion delivered and filed this the 25th day of June, 2009.